
AC TRANSIT DISTRICT
Board of Directors
Executive Summary

GM Memo No. 09-278

Meeting Date: November 18, 2009

Committees:

Planning Committee
External Affairs Committee
Rider Complaint Committee
Board of Directors

Finance and Audit Committee
Operations Committee
Paratransit Committee
Financing Corporation

SUBJECT: Consider Adoption of **Resolution No. 09-060** Affirming the Alameda-Contra Costa Transit District's Board of Directors' Compliance of the Conditions As Established By the Metropolitan Transportation Commission (MTC) Regarding the Receipt of Congestion Mitigation and Air Quality (CMAQ) Funds.

RECOMMENDED ACTION:

Information Only Briefing Item Recommended Motion

Adopt Resolution No. 09-060

Fiscal Impact:

Additional revenues of up to \$35 million assuming successful diversion of funds.

Background/Discussion:

At the October 28th Board meeting, the Board directed staff to include a Board Resolution that defined how the Board would respond to the requirements associated with the redirection of \$35 million in CMAQ funding to operations outlined in the Metropolitan Transportation Commission letter from Executive Director Heminger dated October 26, 2009, and how the Board would respond to these requests.

On October 29th, AC Transit staff met with MTC and FTA staff to discuss the proposed CMAQ-eligible services. During the meeting AC Transit and MTC staff conferred about the MTC financial review requirement. Several ideas were considered for the review including financial and operating concepts that could aid AC Transit and inform the regional Transit Sustainability Study. MTC staff was supportive of AC Transit staff working with MTC staff to define the financial review requirement.

Prior Relevant Board Actions/Policies:

GM Memo 09-277: Consider Receiving Report on Receipt of Congestion, Mitigation and Air Quality Funds and Funding Task Force, October 28, 2009

GM Memo 09-228: Consider Authorizing the General Manager or His Designee to Pursue Shifting Funds from the E.14th Street/International Boulevard/Telegraph Avenue Bus Rapid Transit (BRT) Project to the Operating Budget, September 25, 2009

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Attachments:

Attachment 1: Resolution 09-060

Attachment 2: MTC letter dated October 26, 2009, inclusive of MTC Proposed Conditions

**Approved by: Mary King, Interim General Manager
Jim Gleich, Deputy General Manager**

**Prepared by: Nancy Skowbo, DGM, Service Development
Kate Miller, Capital Development, Legislation & Grants**

Date Prepared: November 9, 2009

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT

RESOLUTION NO. 09-060

A RESOLUTION AFFIRMING THE ALAMEDA-CONTRA COSTA TRANSIT DISTRICT'S BOARD OF DIRECTORS' COMPLIANCE OF THE CONDITIONS AS ESTABLISHED BY THE METROPOLITAN TRANSPORTATION COMMISSION (MTC) AND FURTHER DEFINED HEREIN

WHEREAS, Metropolitan Transportation Commission (MTC) is the federally designated recipient of the Congestion Mitigation Air Quality (CMAQ) Program funds for the San Francisco Bay Area; and

WHEREAS, the AC Transit Board directed staff to request that MTC redirect \$35 million in CMAQ funds committed to the E. 14th Street-International Blvd.-E. 14th Street Bus Rapid Transit Project to operations; and

WHEREAS, MTC has agreed to approve the diversion of revenues providing that AC Transit meets the following three conditions:

1. **Agency Financial Review:** Prior to the release of the FY 2010 portion of CMAQ funding, AC Transit agrees to an independent comprehensive, financial review that considers cost control and revenue enhancement strategies to support the District's long-term financial viability. AC Transit must take the necessary steps to implement the identified strategies before the release of the requested FY 2011 portion of CMAQ funding.
2. **East Bay Operations Analysis:** Consistent with the Commission's direction to proceed with subregional analysis of service effectiveness as part of the Transit Sustainability Project, AC Transit agrees to an independent, comprehensive operational analysis for the east bay transbay service areas, in cooperation with BART, WestCAT, Union City, and the Water Emergency Transportation Authority. Where financially feasible, AC Transit agrees to take all reasonable steps to implement the recommendations of this analysis.
3. **Address Eligibility for Fund Sources:** AC Transit will demonstrate to MTC and the Federal Transit Administration that the proposed operating expenses for the restructured service are eligible for CMAQ funds. If the proposed expenses are not CMAQ eligible, AC Transit will identify another project that can use the CMAQ funds in exchange for operating funds. In the event AC Transit does not have such a project in its own capital plan, AC Transit will be responsible for obtaining the agreement of another transit operator to assist in the exchange of funds.

NOW THEREFORE, the Board of Directors of the Alameda-Contra Costa Transit District does resolve as follows:

Section 1. AC Transit will fully and cooperatively participate in a joint comprehensive financial review to identify cost control and revenue enhancement strategies to support the District's financial viability, and will fully and seriously consider the implementation of any identified strategies.

Section 2. AC Transit will cooperatively and enthusiastically participate in MTC's "sustainability study" will support changes which improve the efficiency and quality of transit service provided in the East Bay.

Section 3. AC Transit agrees that the District must work with FTA and MTC to assure that the proposed service changes are eligible for CMAQ funding and in the event that some or all of them are not, AC Transit will endeavor to obtain a funding exchange agreement with another transit operator to exchange the funds.

Section 4. AC Transit Board of Directors agrees to comply with the MTC conditions provided that full details of the conditions are disclosed in advance and are not contrary to the other laws, rules and regulations applicable to the District.

Section 5. This resolution shall become effective immediately upon its passage by four affirmative votes of the Board of Directors.

PASSED AND ADOPTED THIS 18th day of November, 2009

Ryan "Rocky" Fernandez, President

Attest:

Linda A. Nemeroff, District Secretary

I, Linda A. Nemeroff, District Secretary for the Alameda-Contra Costa Transit District, do hereby certify that the foregoing Resolution was passed and adopted at a Regular Meeting of the Board of Directors held on the 30th day of September 2009, by the following roll call vote:

AYES:

NOES:
ABSENT:
ABSTAIN:

Linda A. Nemeroff, District Secretary

Approved as to Form:

Kenneth C. Scheidig
General Counsel



METROPOLITAN
TRANSPORTATION
COMMISSION

cc: *Alix B*
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October 26, 2009

Scott Haggerty, Chair
Alameda County

Adrienne J. Tissier, Vice Chair
San Mateo County

Tom Azumbrado
U.S. Department of Housing
and Urban Development

Tom Bates
Cities of Alameda County

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Cities of Santa Clara County

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Cities of San Mateo County

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Cities of Contra Costa County

Ken Yeager
Santa Clara County

Steve Heminger
Executive Director

Ann Flemer
Deputy Executive Director, Policy

Andrew B. Fremier
Deputy Executive Director, Operations

Mr. Rick Fernandez
General Manager
AC Transit
1600 Franklin Street
Oakland, CA 94612

Dear Mr. Fernandez:

I am responding to your letter dated September 17th in which you request the redirection of roughly \$80 million in capital revenues currently dedicated to the proposed East 14th/International/Telegraph Bus Rapid Transit (BRT) line to other projects in order to make an equivalent amount of funding available for AC Transit's operating costs. Based on more recent conversations with you and your Board members, I understand that the immediate request is reduced to \$35 million in federal Congestion Mitigation and Air Quality (CMAQ) Improvement Program funds over a two-year period.

I am deeply concerned about the significant budget challenges faced by the region's transit agencies, including AC Transit, as a result of the loss of State Transit Assistance funding and the steep decline in sales tax revenues. I am also concerned that the frequency of AC Transit's requests to MTC to redirect capital funding to operating expenses over the past decade suggest a more fundamental and long-term challenge that must be tackled. In order to address this challenge, I am prepared to recommend in December that the Commission approve the request to transfer \$35 million in CMAQ funding from the BRT project to AC Transit operating expenses under the following three conditions:

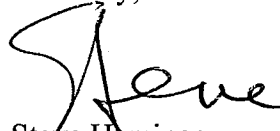
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operational analysis for the east bay and transbay service areas, in cooperation with BART, WestCAT, Union City, and the Water Emergency Transportation Authority. Where financially feasible, AC Transit agrees to take all reasonable steps to implement the recommendations of this analysis.

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If these conditions are acceptable, I would request that your Board of Directors enact a resolution endorsing this approach by November 30, 2009, so that Commission action can follow in December. Please do not hesitate to contact me should you have any questions or if you would like to discuss this matter further.

Sincerely,



Steve Heminger
Executive Director

cc: Chair Scott Haggerty
Commissioner Tom Bates
Commissioner Federal Glover
Commissioner Amy Rein Worth